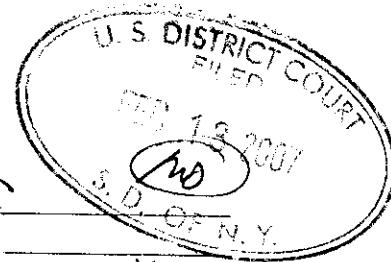


Open  
04cv 3694UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKDocument # 32Miodrag Beljakovicv  
Melohn Properties, Inc.USCA NO. 06-4760-CV  
SDNY NO. 04-CV-03694  
JUDGE: Richard J. Holwell  
DATE: 2/13/07

## INDEX TO THE RECORD ON APPEAL

PREPARED BY (NAME): Kenneth J BranhamFIRM: APPAL TechADDRESS: 205 Lex Av. N.Y. 10014PHONE NO.: (212) 213-3222

## DISTRICT COURT DOCKET ENTRIES -----

## DOCUMENTS

DOC#

Clerk's Certificate

See Attached List of Numbered Documents

 Original Record Supplemental RecordThe record in the above entitled case was indexed to the U.S.C.A.  
for the Second Circuit on the 13 Day of Feb, 2007.

United States District Court for  
the Southern District of New York

Miodrag Beljakovic

-v-

Melohn Properties, Inc.

Date: 2/13/2007  
U.S.C.A. # 04-4760-cv

U.S.D.C. # 04-cv-03694

D.C. JUDGE Richard H. Howell

**Clerk's Certificate**

I, J. Michael McMahon, Clerk of the Court of the United States District Court for the Southern District of New York, do hereby certify that the certified copy of the docket entries and the original filed papers numbered \_\_\_\_\_ Through \_\_\_\_\_, inclusive, constitutes the Original record on appeal in the above entitled proceedings except for the following missing documents:

**Date Filed**

**Document Description**

10-20-2001 - NOTICE OF MEDIATOR

In Testimony Whereof, I have caused the seal of said Court to be hereunto affixed, at the City of New York,  
this 13 Day of Feb In this year of our Lord, Two Thousand and Seven, and the Independence of  
the United States this 231<sup>st</sup> year.

J. Michael McMahon, Clerk

By \_\_\_\_\_

Deputy Clerk

APPEAL, CASR!!

**U.S. District Court**  
**United States District Court for the Southern District of New York (Foley Square)**  
**CIVIL DOCKET FOR CASE #: 1:04-cv-03694-RJH-GWG**  
**Internal Use Only**

Beljakovic v. Melohn Properties, Inc.  
Assigned to: Judge Richard J. Holwell  
Referred to: Magistrate Judge Gabriel W. Gorenstein  
Cause: 29:621 Job Discrimination (Age)

Date Filed: 05/14/2004  
Jury Demand: Plaintiff  
Nature of Suit: 442 Civil Rights: Jobs  
Jurisdiction: Federal Question

Date Filed	#	Docket Text
05/14/2004	①	COMPLAINT against Melohn Properties, Inc. (Filing Fee \$ 150.00, Receipt Number 508255) Document filed by Miodrag Beljakovic.(jjm, ) (Entered: 05/17/2004)
05/14/2004		SUMMONS ISSUED as to Melohn Properties, Inc. (jjm, ) (Entered: 05/17/2004)
05/14/2004		Magistrate Judge Gabriel W. Gorenstein is so designated. (jjm, ) (Entered: 05/17/2004)
05/27/2004	②	AMENDED COMPLAINT amending [1] Complaint against Melohn Properties, Inc.. Document filed by Miodrag Beljakovic. Related document: [1] Complaint filed by Miodrag Beljakovic.(djc, ) (Entered: 05/28/2004)
05/27/2004		Set Answer Due Date re: [2] Amended Complaint as to Melohn Properties, Inc. answer due on 6/7/2004. (djc, ) (Entered: 05/28/2004)
06/01/2004	③	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for general pretrial (includes scheduling, discovery, non dispositive pretrial motions and settlement). Referred to Magistrate Judge Gabriel W. Gorenstein. (Signed by Judge Richard J. Holwell on 05/26/04) (djc, ) (Entered: 06/01/2004)
06/14/2004	④	AFFIDAVIT OF SERVICE of Summons and Amended Complaint. Melohn Properties, Inc. served on 6/9/2004, answer due 6/29/2004. Service was accepted by Chaya Wagshul. Document filed by Miodrag Beljakovic. (djc, ) (Entered: 06/17/2004)
07/06/2004	⑤	RULE 7.1 DISCLOSURE STATEMENT. Document filed by Melohn Properties, Inc. (cd, ) (Entered: 07/08/2004)
07/06/2004	⑥	ANSWER to Complaint. Document filed by Melohn Properties, Inc..(ed, ) (Entered: 07/08/2004)
07/23/2004	⑦	ORDER RE SCHEDULING AND INITIAL PRETRIAL CONFERENCE... If such a consent order is not filed within the time provided,... Initial Conference set for 8/10/2004 10:15 AM before Magistrate Judge Gabriel W. Gorenstein. (Signed by Judge Gabriel W. Gorenstein on 7/22/2004) Copies mailed by Chambers.(jsa, ) (Entered: 07/26/2004)
08/10/2004		Minute Entry for proceedings held before Judge Gabriel W. Gorenstein : Interim Pretrial Conference held on 8/10/2004 10:15 a.m. (kw, ) (Entered: 08/11/2004)
08/10/2004		MEMORANDUM TO THE DOCKET CLERK: for proceedings held before Judge Gabriel W. Gorenstein : Interim Pretrial Conference held on 8/10/2004 10:15 a.m. (kw, ) (Entered: 08/11/2004)
08/10/2004	⑧	PRETRIAL ORDER; parties may move to amend the pleadings or join any other parties no later than 8/24/04; disclosures of the identities and reports of experts will be made by 11/10/04; disclosure of identities and reports of any experts intended by an opposing party solely to rebut previously disclosed expert evidence shall be made by 11/25/04; no discovery shall take place after 12/10/04; parties shall inform each other by letter by 12/10/04 whether either intends to file a dispositive motion; any dispositive pretrial motions shall be served by 1/10/05; pretrial order materials to dft(s) on or before 1/10/05. (Signed by Judge Gabriel W. Gorenstein on 8/10/04) Copies sent by chambers.(dle, ) (Entered: 08/13/2004)
08/10/2004		Set/Reset Scheduling Order Deadlines: Amended Pleadings due by 8/24/2004. Joinder of Parties due by 8/24/2004. Discovery due by 12/10/2004. (dle, ) (Entered: 08/13/2004)
09/16/2004	⑨	ORDER REFERRING CASE to Mediation...referring action to the Clerk to assign the above-entitled action to mediation. (Signed by Judge Gabriel W. Gorenstein on 9/10/04) (ae, ) (Entered: 09/21/2004)
10/20/2004	10	NOTICE SELECTING MEDIATOR - Notice of selection of mediator.(sc, ) (Entered: 10/20/2004)
11/03/2004	⑩	RULE 26 DISCLOSURE.Document filed by Melohn Properties, Inc..(ed, ) (Entered: 11/08/2004)
11/03/2004	⑪	RULE 26 DISCLOSURE STATEMENT.Document filed by Melohn Properties, Inc. (ed, ) (Entered: 11/08/2004)
11/03/2004	⑫	Statement with Privilege Log. Document filed by Melohn Properties, Inc. (ed, ) (Entered: 11/08/2004)
11/03/2004	⑬	Statement with Privilege Log. Document filed by Melohn Properties, Inc. (ed, ) (Entered: 11/08/2004)

1/03/2004	(14) SUPPLEMENTAL RULE 26 DISCLOSURE Document filed by Melohn Properties, Inc. (cd, ) (Entered: 11/08/2004)
01/27/2005	(17) MOTION to Amend/Correct [2] Amended Complaint. Document filed by Miodrag Beljakovic. (fk, ) (Entered: 02/11/2005)
01/28/2005	(16) JOINT PRETRIAL ORDER (Signed by Judge Gabriel W. Gorenstein on 1/27/05) (pl, ) (Entered: 02/09/2005)
02/03/2005	(15) PRETRIAL ORDER: plaintiff's document entitled "Notice of Motion", dated 1/27/05, with a proposed amended complaint. Plaintiff's motion has not yet been docketed and will remain undocketed because, as defendant notes, it contains an improper discussion of what purportedly occurred during the mediation. In addition, the motion to amend must be DENIED for two additional reasons as further set forth in said ORDER. (Signed by Judge Gabriel W. Gorenstein on 2/2/05) Copies Mailed by Chambers.(db, ) (Entered: 02/08/2005)
02/25/2005	(18) ENDORSED LETTER addressed to Judge Gabriel W. Gorenstein from The Firm Kucker & Bruh, LLP dated 2/23/05 re: Counsel for defendant writes to request an adjournment of the deadline for submission of a Joint Pretrial Order. The deadline in paragraph 4 of the 1/27/05 order is ordered until 30 days after disposition of the proposed motion, provided such motion is filed on or before 3/15/05. (Signed by Judge Gabriel W. Gorenstein on 2/24/05) (jco, ) (Entered: 03/04/2005)
03/15/2005	(19) MOTION to Dismiss. Document filed by Melohn Properties, Inc. (db, ) (Entered: 03/23/2005)
03/15/2005	(20) MEMORANDUM OF LAW in Support of [19] MOTION to Dismiss. Document filed by Melohn Properties, Inc. (db, ) (Entered: 03/23/2005)
03/29/2005	(21) AFFIDAVIT of AFFIRMATION in Opposition re: [19] MOTION to Dismiss.. Document filed by Miodrag Beljakovic. (djc, ) (Entered: 04/05/2005)
04/07/2005	(22) REPLY AFFIRMATION of William D. Hummell in Support re: [19] MOTION to Dismiss.. Document filed by Melohn Properties, Inc.. (dle, ) (Entered: 04/11/2005)
10/21/2005	(23) MEMORANDUM OPINION AND ORDER; Read together, Gilmer and Alexander establish that only an individual can determine in what forum he will vindicate certain statutory rights, including rights under the ADEA. For this reason, the Court holds that paragraph 23 of the CBA, which was negotiated between plaintiff's union and his employer, cannot preclude subject matter jurisdiction. Defendant's [19] MOTION to Dismiss. is therefore denied. (Signed by Judge Richard J. Holwell on 10/17/05) (sac, ) (Entered: 10/21/2005)
11/01/2005	(24) ENDORSED LETTER: addressed to Judge Richard J. Holwell from William D. Hummell dated 10/28/2005 re: defendant is requesting a brief extension of time in which to make a motion for reconsideration. ENDORSEMENT: Application Granted. Any motion for reconsideration shall be filed by 11/7/2005. So Ordered. (Signed by Judge Richard J. Holwell on 10/28/2005) Copies Faxed By Chambers.(lb, ) (Entered: 11/02/2005)
11/07/2005	(25) MEMORANDUM OF LAW in support of local rule 6.3 motion for reconsideration and reargument. Document filed by Melohn Properties, Inc.. (dle, ) (Entered: 11/09/2005)
11/07/2005	(26) MOTION for an order granting reargument and reconsideration of the decision and order dated 10/17/05 which was entered on 10/21/05. Document filed by Melohn Properties, Inc.. (dle, ) (Entered: 11/09/2005)
11/07/2005	Motion Not Referred: re: [26] MOTION for Reconsideration. filed by Melohn Properties, Inc. (kkc, ) (Entered: 07/07/2006)
11/23/2005	(27) REPLY MEMORANDUM OF LAW in Support re: [26] MOTION for Reconsideration. Document filed by Melohn Properties, Inc. (jco, ) (Entered: 11/28/2005)
12/01/2005	(28) Motion for an order granting leave to appear amicus Curiae in support of the dt Melohn Properties, Inc. and to file the accompanying memorandum of law as amicus curiae. (dle, ) (Entered: 12/02/2005)
12/02/2005	(29) ORDER; Realty Advisory Board and Labor Relations (RAB) may appear as amicus curiae in this matter. RAB's memorandum shall be served and filed by 12/15/05. Plaintiff shall file any answering papers by 1/16/05. (Signed by Judge Richard J. Holwell on 11/29/05) (kco, ) (Entered: 12/05/2005)
09/27/2006	(30) MEMORANDUM AND OPINION # 93732 re: [26] MOTION for Reconsideration. filed by Melohn Properties, Inc. Applying the law as it stands, this Court reaffirms its view that the union negotiated waiver clause before it was unenforceable and, therefore denied the motion for reconsideration. So Ordered. (Signed by Judge Richard J. Holwell on 9/26/06) (jco, ) (Entered: 09/28/2006)
10/11/2006	(31) NOTICE OF APPEAL from [30] Memorandum & Opinion,. Document filed by Melohn Properties, Inc. Filing fee \$ 455.00, receipt number E 593121. Copies of Notice of Appeal mailed to Attorney(s) of Record: Miodrag Beljakovic and Proskauer Rose LLP. (nd, ) (Entered: 10/11/2006)
10/11/2006	Transmission of Notice of Appeal to the District Judge re: [31] Notice of Appeal,. (nd, ) (Entered: 10/11/2006)
10/11/2006	Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: [31] Notice of Appeal,. (nd, ) (Entered: 10/11/2006)